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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GEORGE DZIAMNISKI, Plaintiff, v. KIRKPATRICK & LOCKHART, Defendant.	)))))))))	Civil Action No. 07-604 The Honorable David Cercone

ANSWER

Kirkpatrick & Lockhart Preston Gates Ellis LLP ("K & L Gates"), incorrectly named in the caption, answers Plaintiff George Dziamniski's ("Plaintiff") Complaint as follows:

First Defense

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

Second Defense

1. K & L Gates admits only that Plaintiff is an adult individual. K & L Gates is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and those allegations are therefore denied.

2. K & L Gates admits that it is a law firm and has offices located at 535 Smithfield Street, Pittsburgh, Pennsylvania, and further states that it has offices located at numerous other locations. K & L Gates' correct name is Kirkpatrick & Lockhart Preston Gates Ellis LLP. K & L Gates denies the remaining allegations in Paragraph 2.

3. The allegations in Paragraph 3 are conclusions of law, to which no response is required. To the extent a response is required, K & L Gates admits the allegations contained in Paragraph 3.

4. K & L Gates admits only that Plaintiff was employed by K & L Gates beginning in April 2001 as a temporary employee and that he was hired as a legal clerk in April 2003. K & L Gates denies that Plaintiff was a "permanent" employee at any time. At all times, Plaintiff was an at-will employee of K & L Gates.

5. K & L Gates admits only that Plaintiff was discharged in August 2006. The remaining allegations in Paragraph 5 are denied. By way of further response, Plaintiff was terminated for legitimate, non-discriminatory reasons.

6. Denied. K & L Gates informed Plaintiff of the reasons for his discharge.

7. K & L Gates admits only that Plaintiff requested time off on June 6, 2006. K & L Gates is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and those allegations are therefore denied.

8. After reasonable investigation, K & L Gates is without knowledge or information sufficient to form a belief as to the truth of the allegation regarding an email sent to Plaintiff's co-workers, and strict proof thereof is demanded at the time of trial. The remaining allegations in Paragraph 8 are denied.

9. Denied.

10. The allegations in Paragraph 10 are conclusions of law, to which no response is required. To the extent a response is required, K & L Gates denies the allegations contained in Paragraph 10.

11. The allegations in Paragraph 11 are conclusions of law, to which no response is required. To the extent that Paragraph 11 contains allegations of fact, K & L Gates denies the allegations contained in Paragraph 11.

12. K & L Gates admits only that Plaintiff applied for unemployment compensation benefits, K & L Gates did not present any evidence, and Plaintiff's application for benefits was granted. The remaining allegations in Paragraph 12 are denied.

13. K & L Gates admits only that Plaintiff was able to perform the essential elements of his job and that Plaintiff was considered a satisfactory employee. By way of further answer, the decision to terminate Plaintiff was unrelated to Plaintiff's performance. The remaining allegations in Paragraph 13 are denied.

14. K & L Gates admits that Plaintiff mentioned suicide during the meeting where Plaintiff was terminated, which meeting was subsequent to the decision by K & L Gates to terminate Plaintiff's employment. By way of further answer, in response to Plaintiff's statement about suicide during the meeting, K & L Gates' Human Resources representative suggested that Plaintiff seek the assistance of its Employer Assistance Program ("EAP"), gave Plaintiff a brochure about the EAP, and even offered to help him make the call to the EAP representative. The remaining allegations in Paragraph 14 are denied.

15. As stated in Paragraph 14, above, K & L Gates admits that Plaintiff mentioned suicide during the meeting in which Plaintiff was terminated. The remaining allegations in Paragraph 15 are denied.

16. K & L Gates admits the allegations contained in Paragraph 16.

17. To the extent not explicitly admitted, K & L Gates denies each and every allegation in the Complaint.

18. K & L Gates further denies that any of the relief sought by Plaintiff is either authorized or appropriate for the alleged action in the Complaint.

Third Defense

19. Plaintiff is not a person with a disability.

Fourth Defense

20. Plaintiff is not a qualified individual with a disability.

Fifth Defense

21. To the extent that Plaintiff was a qualified individual with a disability, K & L Gates was, at all times, unaware that Plaintiff had any disability.

Sixth Defense

22. Any and all decisions regarding Plaintiff's employment were made for legitimate, job-related, non-discriminatory reasons.

Seventh Defense

23. Prior to the decision to terminate Plaintiff, Plaintiff never indicated that he was disabled in any way, and never requested that K & L Gates provide him with a reasonable accommodation.

Eighth Defense

24. The allegations set forth in Plaintiff's Complaint do not support a basis for punitive damages.

Ninth Defense

25. Plaintiff has failed to mitigate his alleged damages.

WHEREFORE, K & L Gates respectfully requests that this Honorable Court dismiss the Complaint, with prejudice, and award K & L Gates all of the costs of its defense, including attorney's fees.

Respectfully submitted,

s/ James W. Carroll, Jr.

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CERTIFICATE OF SERVICE

I, James W. Carroll, Jr., certify a true and correct copy of the foregoing Answer was served upon the following persons via first class, postage prepaid mail, this 3rd day of August, 2007:

George Dziamniski
4177 Finley-Elrama Road
Finleyville, PA 15332

s/ James W. Carroll, Jr.
James W. Carroll, Jr.